

INDEX TO BUSINESS PROCESS ISSUES (REPLY)

	<u>Page</u>
Issue I-8: Electronic Monitoring of OSS Usage.....	BP-1
Issue I-11: Termination of OSS Access	BP-1
Issues IV-7: 911	BP-9
Issue IV-56: Membership in NCTDE	BP-5
Issue IV-74: Billing Procedures	BP-7
Issues IV-79: 911	BP-9
Issue IV-97: Customer Proprietary Network Information	BP-1

BUSINESS PROCESS (REPLY)

Issue I-8 Electronic Monitoring of OSS Usage

Issue I-11 Termination of OSS Access

Issue IV-97 Customer Proprietary Network Information

Acceptance of Verizon VA's proposed language protects the interests of all CLECs who rely on Verizon VA's OSS. The Commission should adopt that language so that Verizon VA may continue to monitor volumes of OSS usage and suspend OSS access for CLECs who refuse to cease abuse of Verizon VA's OSS after they have been given notice and a 10 day period to cure the abuse.

Every party to this proceeding recognizes that access to OSS is important to the operations of every CLEC, IXC and CMRS provider that interconnects with Verizon VA.¹ Moreover, in other proceedings AT&T has complained about the risk of slow OSS response times.² In spite of all of this, the Petitioners urge the Commission to prohibit Verizon VA from using the one tool capable of ensuring reliable performance of Verizon VA's web GUI: electronic monitoring of individual user volumes that is necessary to protect against abuse.

¹ Verizon VA Opening Brief at BP-4 ("The hundreds of CLECs, CMRS providers and IXCs with whom Verizon interconnects all rely on uninterrupted access to Verizon's OSS."); AT&T Br. at 196 ("access to OSS is critical not just to the operation of Verizon's network, but 'as well [to] the networks of all CLECs'"); Cox Br. at 50 ("given the importance of Verizon OSS to CLECs' business"); Tr. 2017 (WorldCom witness Lichtenberg "Obviously without access to OSS, there is no way to place an order or support a customer.").

² PA Verizon § 271 Order at ¶ 50 ("AT&T adds that Verizon's pre-ordering metrics fail to capture long response times and outages and that certain other metrics for ordering are similarly flawed.").

The Petitioners' claim that Verizon VA has presented no evidence to support the need for OSS monitoring simply ignores the record.³ As Verizon VA witness Ms. Langstine testified, this is a very real problem that Verizon VA has encountered in the past.⁴ Through electronic monitoring, Verizon VA has identified and confronted offending individual users, thereby preserving the availability of the web GUI for all other end users.⁵ An after-the fact audit simply would not afford that type of real-time correction.

Cox and WorldCom have agreed with Verizon VA's statements that excessive volumes of transactions such as those produced through the use of robots can cripple the web GUI.⁶ Further, WorldCom's witness agreed that all users benefit from "a system by which problems are identified and resolved *as promptly as possible*."⁷ Cox's witness confirms the fact that Verizon VA's traditional use of electronic monitoring to address promptly OSS violations has been successful. As Dr. Collins stated: "Those abuses that have occurred have caused no permanent damage to the Verizon OSS, but rather have resulted in slowdowns in the performance of the Web [GUI]."⁸ Verizon VA's safeguards are working, and the Commission should allow them to remain in place.

³ AT&T Brief at 195-96; Cox Brief at 42; WorldCom Brief at 245.

⁴ Tr. 2534-37; Cox Ex. 25.

⁵ Tr. 2534-37, 2575-78; Cox Ex. 25.

⁶ Verizon VA Ex. 20 at 2-3; Tr. 2021, 2024-25. Cox's own witness belies Cox's argument in its brief that Verizon VA's concerns are "minor" and that "CLEC misuse of OSS is not a serious problem." Cox Br. at 42, 49. At the hearing Dr. Collins agreed that "a robot used through the Web GUI. . . could shut that system down or impair its usage." Tr. 2024-25.

⁷ Tr. 2021-22.

⁸ Cox Brief at 49.

Both Cox and WorldCom attempt to support their positions by stating that they do not use robots on the web GUI.⁹ This, of course, ignores the fact that other CLECs may opt into these agreements (or the prospect that Cox and/or WorldCom might use robots in the future).¹⁰ If Verizon VA is denied its right to monitor the use of its own OSS, Verizon VA will be left with no means of effectively safeguarding against misuse by those CLECs. And, as noted above, the record here makes abundantly clear that there have been abuses previously and that those abuses have affected the performance of the Web GUI.¹¹ While the offending users may not have been the Petitioners in this case, this remains a very real concern for Verizon and the CLECs that rely on Verizon's OSS. If the Petitioners continue to use Verizon VA's web GUI properly, they are at no risk of termination and have no legitimate basis to oppose inclusion of Verizon VA's proposed provision in the Parties' interconnection agreements.

In fact, the Petitioners' opposition to Verizon VA's proposed language is based on sheer speculation that Verizon VA might somehow abuse its right to police OSS usage. For example, Cox's suggestion that Verizon VA might "use termination threats to attempt to change Cox's use of OSS," is without any record support. Further, Cox acts as if it would have no remedy if Verizon VA inappropriately terminated its access to Verizon VA's OSS. To the contrary, in such a situation Cox could seek relief for breach of the contract. Similarly, both WorldCom and Cox make unsubstantiated claims that Verizon VA might steal their marketing data through OSS monitoring.¹² Verizon VA has had access to this type of information for years, yet neither of the

⁹ Tr. 2044.

¹⁰ Verizon VA Ex. 20 at 5.

¹¹ Tr. 2020.

¹² *Id.* at 50-51; WorldCom Brief at 245.

Petitioners has offered any evidence or allegation that Verizon VA has used CLEC marketing information for any improper purpose. Nor can it. The simple fact is that Verizon VA has a statutory obligation to safeguard that information and cannot use it for its own marketing purposes.¹³

Therefore, the Commission should disregard the unsupported allegations raised by Petitioners and adopt the language offered by Verizon VA.

¹³ 47 U.S.C. § 222.

Issue IV-56 Membership In NCTDE

The Commission should summarily dismiss WorldCom's demand that Verizon VA either participate in the NCTDE or turn over to WorldCom customer payment history information. As Verizon VA has pointed out, the NCTDE is a voluntary organization and Verizon VA is not in the business of acting as a credit reporting agency.

Tellingly, WorldCom does not offer a single citation supporting its unreasonable proposal that Verizon VA either participate in the NCTDE or provide WorldCom with sensitive customer payment information that it does not provide to any other CLEC.

WorldCom's suggestion that it "needs" Verizon VA's customer credit information to assist it with its "ability to assess the creditworthiness of new customers" is specious.¹⁴ First, WorldCom admitted it does not need this information to provision service for a new customer.¹⁵ Second, the information WorldCom seeks is available to it through credit reporting agencies -- just as it is available to Verizon VA and every other business that uses such information to assess the creditworthiness of a new customer.¹⁶ Finally, WorldCom offers no factual support for its unexplained contention that "customers' payment of telephone bills does not generally correlate with their payment history of other bills that are traditionally recorded in a credit report."¹⁷

Verizon VA has made the business decision not to participate in the NCTDE. In part this decision was based on the choice to avoid certain costs associated with participation in the

¹⁴ WorldCom Brief at 246.

¹⁵ Tr. 1951-52.

¹⁶ Verizon VA Opening Brief at BP-9-10.

NCTDE data exchange.¹⁸ WorldCom has not offered to pay these costs on behalf of Verizon VA. Since they cannot be recouped, the Commission should not impose such costs on Verizon VA.

There certainly are limits to what Verizon VA must provide WorldCom. The joining of voluntary organizations and the sharing of customer payment history are beyond those limits. As a result, WorldCom's proposals should be rejected.

¹⁷ WorldCom Brief at 247; *see* Tr. 1951 ("LICHTENBERG: *I'm not aware* that [a general credit history] includes any credit history of telephone service that was canceled for nonpayment. But as I said, *I'm not an expert on other types of credit reporting.*").

¹⁸ Tr. 949.

Issue IV-74 Billing Procedures

Verizon VA has offered a compromise proposal on this issue that is more than reasonable. In the normal course of business, Verizon VA runs quality assurance trials before rolling out an electronic bill as the bill of record. As a compromise, Verizon VA has offered to allow WorldCom to use the electronic bills during the trial period in Virginia. WorldCom, however, wants even greater preferential treatment. It wants to use the electronic bill as the bill of record *now* - before Verizon VA has had ample time to confirm its accuracy and before any other CLEC in Virginia may do so. WorldCom's claims should be rejected.

Once Verizon VA has successfully completed its quality assurance trial and reported those results through the change management process, Verizon VA will offer an electronic bill as the bill of record throughout Virginia.¹⁹ As Verizon VA witness Jonathan Smith explained, Verizon VA "desires to get an electronic bill, BOS-BDT bill, as soon as [Verizon VA] could validate and get it through the quality assurance process...."²⁰ No party's interests are served by prematurely implementing an electronic billing format prior to completing the necessary quality assurance measures.

WorldCom, however, advocates an immediate change that would make the electronic bill be the bill of record for WorldCom, while a paper bill remains the bill of record for all other CLECs (until such time as Verizon VA completes its quality assurance process).²¹ If WorldCom refuses to accept Verizon VA's very reasonable compromise on this issue, then the Commission

¹⁹ Tr. 2608.

²⁰ Tr. 2602.

²¹ See WorldCom Brief at 251-52.

should rule that WorldCom will have to rely on the paper bill, like all other CLECs, until the electronic bill becomes available as the bill of record in Virginia generally.

Verizon VA should not be required to maintain an up-to-date list of Public Service Access Points (“PSAPs”) for WorldCom, as these codes are available to WorldCom in the same manner that they are available to Verizon VA.

Verizon VA is not “withholding” PSAP information from WorldCom; rather, WorldCom simply wants Verizon VA to collect and update this information on behalf of WorldCom so that WorldCom does not have to do so itself.²² WorldCom devotes much of its brief to telling the Commission about how important the PSAP codes are to it; it never addresses, however, why WorldCom could not acquire the PSAP codes itself.²³ In fact, as WorldCom’s own witness conceded, the PSAP codes are available to WorldCom through the same channels as they are available to Verizon VA -- the PSAP Coordinators.²⁴ In fact, Mr. Sigua admitted that he has obtained PSAP codes from one Coordinator in the past.²⁵ There is no reason why Verizon VA should have to maintain an up-to-date list of PSAP codes for WorldCom, particularly since Verizon VA does not use the codes in Virginia and does not maintain PSAP code lists for any other CLEC.

Because the information WorldCom seeks is readily available to it directly, WorldCom’s proposal should be rejected.

²² WorldCom Brief at 253.

²³ *Id.* at 254.

²⁴ Tr. 2662-63.

²⁵ Tr. 2662.

INDEX TO MISCELLANEOUS ISSUES (REPLY)

Page

Issue VI-1(AA): Information Services Traffic Misc-1

MISCELLANEOUS (REPLY)

Issue VI-1(AA) Information Services Traffic

The issue now presented for decision is not a resolution of the parties' disagreement over the substantive billing and collection issue associated with the use of information services by WorldCom's end-users. The issue now presented is whether the parties' interconnection agreement should flag the billing and collection issue for fuller consideration when circumstances merit it. It should.

Contrary to WorldCom's suggestion that this issue is "moot," WorldCom Br. at 257, the issue is very much alive, as it has relevance both to Verizon's operations in Virginia -- the type of traffic at issue may be permitted in Virginia in the future -- and in other jurisdictions -- the interconnection agreement that results from this arbitration may be adopted for use outside Virginia. Accordingly, Verizon VA reasonably seeks to have language in its interconnection agreement with WorldCom that (i) acknowledges the potential exchange of the type of information services traffic addressed in Verizon VA's proposed contract language (such as recorded time or weather information) and (ii) reasonably provides the parties with the opportunity to address a fair allocation of the financial risk of uncollectable revenue owed by an interconnecting CLEC's end-user. Although the parties have not voluntarily agreed to contract terms, Verizon VA's concerns about future application of this agreement either within or outside Virginia remain. *See* Verizon VA Br. at Misc-4. Verizon VA's proposal puts off to another day a resolution of the merits of the parties' claim about a fair allocation of financial risk, but Verizon VA's simplified proposal ensures that Verizon VA's proposed language flags the issue for fuller (and prompt) consideration when circumstances merit it. A completely silent agreement would increase the risk that Verizon VA is put in the unreasonable position of bearing the financial risk of uncollectable revenue owed by an interconnecting CLEC's end-user.

WorldCom's arguments about whether the type of information services traffic at issue should be characterized as either local or toll calls miss the point. The point of Verizon VA's proposed language is not to address what compensation Verizon VA or WorldCom may owe to each other as that is a question addressed in the Intercarrier Compensation issues. Similarly, there is no dispute that the CLEC's end-user ultimately is responsible for the charges associated with placing a call to access the information services at issue (such as recorded time or weather information). WorldCom Exhibit 8 at 45. Rather, the point of Verizon VA's proposed contract language is to ensure that the parties promptly address and negotiate the appropriate arrangements and allocation of responsibility for billing and collection if and when circumstances permit the exchange of the traffic at issue in Virginia (or upon the adoption of WorldCom's agreement for Virginia by a CLEC in a jurisdiction outside of Virginia – as the traffic at issue typically may be exchanged outside of Virginia).

Verizon VA addressed in its testimony and brief why WorldCom ultimately should bear the risk of the uncollectable revenue.¹ However, neither party is asking the Commission to resolve that question on its merits at this time. Rather, Verizon VA asks the Commission to recognize the risk and adopt Verizon VA's proposal to ensure that the issue receives prompt attention at the appropriate time. WorldCom offers no compelling reason not to include Verizon VA's proposed contract language -- which is nearly identical to the language included in Verizon VA's interconnection agreement with AT&T at § 7.1 -- for this purpose.

¹ See Verizon VA Br. at Misc-4 (explaining that it is not proper or fair to expect Verizon to guarantee payments by WorldCom's end users when Verizon no longer has the billing and collection relationship with the end-user or the remedies for non-payment Verizon typically would have if it had billing and collection responsibility).



INDEX TO RIGHTS-OF-WAY ISSUES (REPLY)

	<u>Page</u>
INTRODUCTION.....	1
Issue III-13: Placement of Terms and Conditions Governing WorldCom's Access to Verizon VA's Poles, Ducts, Conduit and Rights-of-way	1
Issue III-13(h): Make Ready Work.....	5

RIGHTS-OF-WAY (REPLY)

The Commission should reject WorldCom's claim that the terms and conditions governing WorldCom's access to Verizon VA's poles, ducts, conduit and rights-of-way must be contained in the interconnection agreement. Instead, as Verizon VA proposes, those terms and conditions should be set forth in a separate license agreement that is referenced in the interconnection agreement. Contrary to WorldCom's claims, this is consistent with the Act and both the Commission's and the Virginia Commission's past practice. Indeed, Verizon VA's proposal is consistent with the industry practice in Virginia, and WorldCom has provided no legitimate reason that it should be singled out for special treatment. In addition, the Commission should reject WorldCom's overreaching make-ready work proposals because they are unreasonable.

Issue III-13 Placement of Terms and Conditions Governing WorldCom's Access to Verizon VA's Poles, Ducts, Conduit and Rights-of-way

For the reasons set forth in Verizon VA's opening brief, the Commission should adopt Verizon VA's proposal that the Parties' interconnection agreement reference a separate license agreement containing the terms and conditions governing WorldCom's access to poles, ducts, conduit and rights-of-way. Those terms and conditions should not be included in the Parties' interconnection agreement as WorldCom proposes. Verizon VA's proposal is consistent with the prevailing practice in Virginia, and WorldCom has provided no legitimate reason to depart from that practice.

The Virginia Commission has repeatedly approved Verizon interconnection agreements that reference a separate licensing agreement governing CLEC access to poles, ducts, conduit

and rights-of-way, as well as other licensing agreements separate from the interconnection agreement. Verizon VA Ex. 31 at 3. Indeed, *with the exception of the Parties' existing agreement and Verizon VA's old agreement with AT&T, each of Verizon VA's existing interconnection agreements, including several agreements with WorldCom affiliates, reference the separate agreement.* *Id.* Because AT&T has agreed, in this proceeding, to use a separate license agreement for rights-of-way, WorldCom is the **only** carrier insisting on different treatment.¹ WorldCom is therefore just flat wrong in asserting that “placing these terms in a separate agreement would be contrary to industry practice.”² Instead, WorldCom’s proposal is contrary to industry practice in Virginia.

In support of its position, WorldCom claims that “the Act mandates inclusion of the rights-of-way terms and conditions in the Interconnection Agreement,” and the Act requires that all interconnection terms be localized in one place – in the interconnection agreement.”³ WorldCom is wrong. First, WorldCom cites not a single court or commission decision that sets forth this “mandate.” Second, WorldCom reads too much into the Act. Although § 251(c)(1) does require Verizon VA to negotiate “the particular terms and conditions of agreements to fulfill” its duty to afford access to rights-of-way, there is nothing in that section or any other section that prohibits the parties from setting forth those terms in a separate agreement that is referenced in the interconnection agreement. Indeed, in jurisdictions where Verizon operates

¹ See § 16 of Verizon VA’s proposed AT&T contract (“access shall be in conformance with 47 U.S.C. § 224 and on terms, conditions and prices comparable to those offered to any other entity pursuant to each Party’s applicable Tariffs (including generally available *license agreements*)”)(emphasis added).

² WorldCom Br. at 261. In support of its assertion, WorldCom cites to some agreements with Southwestern Bell, not to any agreements with Verizon.

³ *Id.* at 260-61.

under separate license agreements, the Commission has found that “Verizon demonstrates that it provides nondiscriminatory access to its poles, ducts, conduits and rights-of-way at just and reasonable rates in accordance with section 271(c)(2)(B)(iii).”⁴ Moreover, the Commission has specifically recognized the use of separate agreements for purposes of access to Directory Assistance databases. In none of these decisions did the Commission even hint that the use of a separate agreement is inconsistent with the Act.⁵

WorldCom claims that the use of separate agreements would be “unmanageable” and that there is a greater “likelihood that there will be individual terms that are inconsistent with one another.”⁶ WorldCom, however, offers not one concrete example of any “logistical[] difficult[ies]” or any inconsistency of terms between Verizon VA’s proposed interconnection agreement and its proposed license agreement. This is particularly telling because, as noted above, WorldCom’s affiliates (as well as numerous other carriers) already operate under other separate agreements without problems. There simply is no evidence on the record supporting WorldCom’s claims.

WorldCom claims that Verizon VA is wrong in suggesting “that it would be preferable for CLECs to have separate rights-of-way agreements that do not terminate when the

⁴ *MA Verizon § 271 Order* at ¶ 206. In that case, the Commission recognized that, “[t]he record [did] not indicate that anyone, including any of the commenters, [had] filed a discriminatory access complaint with the Massachusetts Department.” *Id.* Likewise, the record in this case is also devoid of even one such complaint against Verizon VA. The Commission has never ruled that a separate agreement is mandated by the Act in the other jurisdictions where it granted Verizon § 271 approval. *See e.g., PA Verizon § 271 Order* at ¶ 47; *CT Verizon § 271 Order* at ¶ 48.

⁵ *In re Provision of Directory Listing Information under the Telecommunications Act of 1934, As Amended*, First Report and Order, CC Docket No. 99-273, 16 FCC Rcd 2736, ¶ 36 (rel. January 23, 2001).

⁶ WorldCom Br. 261.

Interconnection Agreements terminate.”⁷ WorldCom seems to suggest that if these agreements do not terminate at the same time, it would be unable to negotiate new terms and conditions for rights-of-way when it negotiates a new interconnection agreement. *Id.* at 261-62. This concern is misplaced. First of all, in Verizon VA’s experience, rights-of-way license agreements are rarely the subject of further negotiation or controversy and, accordingly, other carriers have wanted them to remain in effect despite recurring expiration of interconnection agreements. Verizon VA Ex. 14 at 5-6. Accordingly, they do not specify a fixed termination date, but are terminated by either party upon specified notice. Therefore, if WorldCom, unlike other carriers, wishes to negotiate a new right-of-way agreement in connection with negotiating a new interconnection agreement, it can easily do so. That should satisfy any conceivable concern.

Finally, Verizon VA is not, as WorldCom suggests, attempting to prevent carriers from opting in to right-of-way terms and conditions.⁸ Verizon recognizes that it must afford access to rights-of-way in each jurisdiction. Such access, however, should be governed by terms and conditions that are appropriate in that jurisdiction. The best way to accomplish this objective is to maintain the rights-of-way agreements for each jurisdiction separately, and simply reference them in Interconnection Agreements.⁹

⁷ *Id.*

⁸ *Id.* at 263.

⁹ WorldCom recognizes that there “are legitimate state-to-state differences that require the use of different terms,” but its suggestion to “simply articulate that fact in the interconnection agreement” is not practical. *Id.* at 263. That would require that each Virginia agreement contain the terms and conditions that apply in every jurisdiction in which Verizon does business, which would surely be unworkable and unnecessary. If that is not what WorldCom’s suggestion means, then it is proposing that if and when the Virginia interconnection agreement is adopted in another jurisdiction, it would simply reference the terms and conditions on rights-of-way applicable in that jurisdiction. That is all Verizon VA is proposing here.

Issue III-13(h)

Make Ready Work

WorldCom's proposed make-ready work language should not be included in the Parties' interconnection agreement, or in the Parties' licensing agreement. WorldCom's arguments in its Brief are inconsistent with its testimony at the hearing and paint an inaccurate and incomplete picture of the Parties' practices.

For example, WorldCom claims it needs "more detail regarding make-ready work than it currently receives."¹⁰ WorldCom cites to a bill as support for its position. At the hearing, however, Verizon VA testified that the detail WorldCom seeks is not provided in the bill, but rather, is provided in written form "with the make-ready proposal" "via e-mail." Tr. 2151, 2149. WorldCom conceded that "[i]f that is the process that is used by Verizon today, that would be sufficient." Tr. 2150.

WorldCom also seems to think it should be privileged to have its make-ready work completed before other CLECs and Verizon VA. Consistent with the Act, Verizon VA schedules make-ready work for itself and all other telecommunications providers and CATV providers on a first come, first served basis. Tr. 2155. WorldCom nonetheless complains that it may experience delays if it has to get in the same line as everyone else because "Verizon insists that all make-ready work for CLECs is slotted-in with work that is performed for Verizon."¹¹ WorldCom's proposed solution, however, aside from being impractical, would simply result in further delays for other CLECs and Verizon VA. As Verizon VA explained at the hearing, the likely result of WorldCom's proposal would be that contractors already scheduled to do work

¹⁰ *Id.*

¹¹ *Id.*

would postpone that work in order to complete WorldCom's make-ready requests. Tr. 2158. Such conduct would be undetectable. *Id.* WorldCom does not dispute this and has provided no evidence to the contrary. As Verizon VA testified, there are "always delays in projects for various reasons" and WorldCom, like every other CLEC and Verizon VA must simply take its turn in having its make-ready work completed. *Id.* WorldCom's demand for preferential treatment should be rejected.¹²

¹² WorldCom misconstrues the record, claiming that "Verizon's witness has stated that [WorldCom's proposed] arrangement would be agreeable to Verizon...." *Id.* at 264 (citing Tr. 2153). In truth, Verizon VA stated that it does not "have a problem saving 25 percent in cost if it's a contractor approved by Verizon and working for Verizon. [Verizon VA] can't have them working for WorldCom doing [Verizon VA's] make-ready work." Verizon VA only agreed with the Commission Staff that work done to Verizon VA's network must be done under Verizon VA's supervision by contractors working for Verizon VA. Although WorldCom states "[t]he contractor would be approved by Verizon, working for Verizon, and subject to Verizon's supervision," *id.* at 264, WorldCom's proposed language does not reflect this statement. Rather, WorldCom's proposal inappropriately raises questions about Verizon VA's ultimate authority to approve or reject the contractor working on its network. Verizon VA ROW Br. 7-8.

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